

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BETHLEHEM AREA SCHOOL DISTRICT	:	
	:	
v.	:	
	:	
	:	
NAUTILUS INSURANCE COMPANY	:	NO. 02-CV-4033
	:	
and	:	
	:	
SCOTTSDALE INSURANCE COMPANY	:	

**PLAINTIFF BETHLEHEM AREA SCHOOL DISTRICT'S SUPPLEMENTAL
ANSWER TO SCOTTSDALE INSURANCE COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

On or about July 16, 2003, Defendant, Scottsdale Insurance Company ("Scottsdale") filed a Motion for Summary Judgment on Plaintiff, Bethlehem Area School District's (the "School District") claims of breach of contract and bad faith pursuant to 42 Pa.C.S.A. §8371. On August 25, 2003, in accordance with the Stipulation for Extension of Time, the School District filed its Answer to the Motion and its Brief in support thereof.

As part of its Motion, Scottsdale argued that the School District's allegations of bad faith were insufficient, and thus fail to adequately set forth such a claim. One averment in the School District's Complaint supporting its bad faith claim is that White Brothers Construction, Inc. ("White Brothers"), also an insured under the policy, admitted liability for the damages caused to the School District's property by virtue of its faulty workmanship on the roof. Despite this admission, Scottsdale refused the School District's claim for benefits under the policy.

Although the averment as to White Brothers' admission of liability is not disputed by Scottsdale in its Motion, the School District has located among the documents produced in the related action captioned, Bethlehem Area School District v. White Brothers Construction

Company, Inc., Joseph Miorelli & Company, Inc. and Shippe Mechanical, Inc., Northampton County Court of Common Pleas, No. C0048CV2002200968, documentation supporting the averment. The document is a letter dated July 26, 2000 from White Brothers to their engineer advising that White Brothers had inspected the School and was providing a "detailed list of damages, with responsible party, that we have observed during our inspection." (See Exhibit "1" hereto). The list identifies White Brothers or its subcontractor, for whom it is responsible, as the responsible party for the damages to the school. In this letter White Brothers clearly admits liability for the School District's property damages. Nevertheless, Scottsdale denied the School District's claim for benefits under the policy. The School District submits this letter in support of its Answer to the Motion for Summary Judgment as further evidence of Scottsdale's bad faith.

Accordingly, Bethlehem requests that the Court consider this Supplemental Answer along with the supplemental exhibit attached hereto when ruling on Scottsdale's Motion for Summary Judgment.

Respectfully submitted,

**POWELL, TRACHTMAN, LOGAN, CARRLE,
BOWMAN & LOMBARDO, P.C.**

By: _____

Dated: August 28, 2003

Paul A. Logan
Mary J. Pedersen
Attorney for Plaintiffs
Bethlehem Area School District

CERTIFICATE OF SERVICE

The undersigned, counsel for Plaintiff certifies that on August 29, 2003, a true and correct copy of the foregoing Plaintiff Bethlehem Area School District's Supplemental Answer to Scottsdale Insurance Company's Motion for Summary Judgment was served upon the following by U.S. Mail, postage prepaid, at the addresses below.

Stuart S. Smith, Esquire
John Churchman Smith & Associates, P.C.
117-119 North Olive Street
P. O. Box 229
Media, PA 19063
Attorney for Defendant Nautilus Insurance Company

Scott J. Tredwell, Esquire
Swartz, Campbell & Detweiler
1601 Market Street
34th Floor
Philadelphia, PA 19103-2316
Attorney for Defendant Scottsdale Insurance Co.

**POWELL, TRACHTMAN, LOGAN,
CARRLE, BOWMAN & LOMBARDO, P.C.**

By: _____

Paul A. Logan
Mary J. Pedersen